

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

VINCENT TRULSON,

06-CV-905-AS

Plaintiff,

ORDER

v.

MICHAEL J. ASTRUE,
Commissioner, Social Security
Administration,

Defendant.

JOSEPH A. GRUBE
Ricci Grube Aita & Breneman, PLLC
1200 Fifth Avenue
Suite 625
Seattle, WA 98101
(206) 770-7606

Attorneys for Plaintiff

KARIN J. IMMERGUT
United States Attorney
NEIL J. EVANS
Assistant United States Attorney
1000 S.W. Third Avenue, Suite 600
Portland, OR 97204-2902
(503) 727-1053

MICHAEL McGAUGHRAN

Office of the General Counsel

JOHANNA VANDERLEE

Social Security Administration

701 Fifth Avenue, Suite 2900

M/S 901

Seattle, WA 98104

(206) 615-2730

Attorneys for Defendant

BROWN, Judge.

Magistrate Judge Donald C. Ashmanskas issued Findings and Recommendation (#11) on May 9, 2007, in which he recommended the Court grant Defendant's Motion to Dismiss (#4). Plaintiff filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has reviewed the record *de novo*, including Plaintiff's objections, and concludes the Commissioner did not err in applying the doctrine of *res judicata*, the Commissioner did not *de facto* reopen Plaintiff's claim, and Plaintiff did not

present any colorable constitutional claim.

Accordingly, the Court does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Ashmanskas's Findings and Recommendation (#11). Accordingly, the Court **GRANTS** Defendant's Motion to Dismiss (#4) and **DISMISSES** this matter.

IT IS SO ORDERED.

DATED this 6th day of July, 2007.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge